

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
MOBILE DIVISION

Andrew McNair dba Swan Lake
Plaintiff,

vs.

Rising S. Company
Defendant.

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CV-2024 -

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COMPLAINT

The Plaintiff, by and through the undersigned counsel, and for his complaint, alleges as follows.

PARTIES

1. The Plaintiff , Andrew McNair is a resident of Baldwin County, Alabama at all times pertinent to this complaint and is an adult above the age of majority in the State of Alabama.
2. The Defendant, Rising S Company, is a Texas based company which is not registered to or licensed to do business within the State of Alabama, but nonetheless they are doing business within the State of Alabama at all times pertinent to this complaint.
3. The Plaintiff Andrew McNair was at all times pertinent to this complaint doing business as Swan Lake and/or as Andrew McNair.

JURISDICTION

4. The Plaintiff is a resident of the State of Alabama, and the Defendant is a resident of State of Texas.
5. The amount in controversy exceeds Seventy-Five Thousand and no/100 dollars (\$75,000.00) excluding interest and costs.

6. Proper jurisdiction lies in this Court pursuant to 28 U.S.C. Section § 1332.

VENUE

7. Venue is laid within the United States District Court for the Southern District of Alabama, Mobile Division.in that the contract in this matter was entered into in Baldwin County, Alabama and the product to be obtained in the contract was to be installed in Baldwin County and the Plaintiff is s resident of Baldwin County, Alabama.

COUNT -BREACH OF CONTRACT

1. This is a contract action which was signed by the respective parties on February 21, 2023 and specifically signed by the Plaintiff within the State of Alabama. (See Attached Exhibit A, Contract between the respective parties)
2. An agreement was entered into between the parties for the purpose of purchasing a shelter model “10x40 Upgrade Model w/ 5x10 Generator Pod”.
3. There are specific special project notes to include all AC Electric, gravity plumbing, client install-Rising S will provide unlimited support to assist client contractor, transportation charges billed at time of shipment actual cost with no markup, build time expected is 150-170 days, and client to send generator to Rising S facility for installation into generator pod.
4. The total cost for the project was One hundred forty thousand two hundred and no/100 dollars (\$140,200.00) to be paid by Andrew McNair with 50% of that amount required as a deposit. The entire amount has been paid in full by Andrew McNair.
5. The Defendant has failed and breached the said contract by not creating, shipping, and/or providing the product to the Plaintiff.

6. The contract date is February 21, 2023. The building time was expected to be up to 170 days. The 170 days have long since expired and the Defendant has failed or refused to live up to their contractual obligations.
7. The Defendant, having failed to provide the product is in breach of the contractual agreement between the respective parties.
8. The Plaintiff in this matter has been damaged in the amount of \$140,200.00 which is the total amount of payment made to the Defendant and has not received the product that

WHEREFORE, the forgoing premises, the Plaintiff demands judgment against the Defendant for the amount paid of \$140,200.00, plus interest and an award of both compensatory, consequential, and actual damages that includes interest and costs.

Respectfully submitted,

/s/ Yancey N. Burnett.
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Defendant may be served at:

Rising S Company
9350 State Highway 31 E
Murchison, Texas 75778